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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

GRIGOR NALBANDYAN et al., Plaintiffs and Appellants, v. CITY OF GLENDALE, Defendant and Respondent.	B237953 (Los Angeles County Super. Ct. No. BC417899)

APPEAL from a judgment of the Superior Court of Los Angeles County, David S. Milton, Judge. Affirmed.

Yarian & Patatanyan LLP, Levik Yarian and Allen Patatanyan for Plaintiffs and Appellants.

Michael J. Garcia, City Attorney, and Ann M. Maurer, General Counsel-Litigation, for Defendant and Respondent.

INTRODUCTION

Plaintiffs Grigor Nalbandyan and Lilit Markaryan are parents of Meri Nalbandyan, who was fatally injured when struck by an automobile while walking in a crosswalk on her way to school. Plaintiffs appeal from a judgment entered after the trial court granted summary judgment for defendant City of Glendale. We find that plaintiffs have not created any triable issue of material fact that the crosswalk, and safety measures and warning devices associated with it, were a dangerous condition of public property pursuant to Government Code section 835.[1] Even if the crosswalk was a dangerous condition of public property, the City of Glendale has established the defense of design immunity pursuant to section 830.6 and is not liable for an injury caused by the plan or design of the crosswalk. We affirm the judgment for defendant City of Glendale.

FACTUAL AND PROCEDURAL HISTORY

At 8:00 a.m. on October 29, 2008, Lilit Markaryan stopped her car in a red zone on Glenwood Road in front of Toll Middle School in Glendale. Markaryan dropped off her daughter, Meri Nalbandyan, who exited the vehicle and went to the marked mid-block crosswalk to cross from the north to the south side of the two-way street, which is divided by double yellow lines. When Meri Nalbandyan passed the middle section of the street, she was struck by Yurie Park's vehicle. Park had just dropped off her child and was driving eastbound on Glenwood Road. Park's attention was diverted because she was waving to another student whom she knew. Park admitted there was no problem with visibility at the time of the accident, and acknowledged that she was not paying attention when she drove her vehicle into the marked crosswalk. Criminal charges were filed against Park, who pleaded guilty.

Toll Middle school is located on Glenwood Road between Concord Street and Virginia Avenue. There are marked crosswalks at both ends of Glenwood Road and a mid-block crosswalk, which consisted of two parallel, 12-inch-wide yellow stripes painted with yellow thermoplastic paint and reflective glass beads located 18 feet apart,

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[1] Unless otherwise specified, statutes in this opinion will refer to the Government Code.

running perpendicular to the north and south curbs of Glenwood road. The pavement surface within crosswalk was textured "stamped" red asphalt.

In November 2000, the Glendale City Council approved modifications to the crosswalks on Glenwood, including construction of "bump-outs" (concrete aprons extending into the street to limit the distance pedestrians were exposed to traffic). The bump-outs reduced the pedestrian crossing of Glenwood Road from 45 to 24 feet. The bump-outs were designed by the City's traffic and civil engineers, including Jano Baghdanian, a licensed engineer and the City's Traffic and Transportation Administrator, and Thomas E. Mitchell, a licensed engineer and the City's Assistant Traffic and Transportation Administrator. The City of Glendale alleged that the bump-outs were designed to narrow the street and calm traffic near the schools. Plaintiffs disputed this evidence, alleging that because adequate testing was not conducted, the purpose of the bump-outs was unclear.

The City of Glendale alleged that the crosswalk complied with the Vehicle Code and with section 3B.17 of the California Manual on Uniform Traffic Control Devices, and that bump-outs were designed in compliance with engineering standards, taking into consideration the need to maintain traffic flow while reducing crosswalk length. Plaintiffs objected to these facts as conclusory and lacking in foundation.

In November 2000, the Glendale City Council approved designation of loading and unloading zones on Concord and Virginia. The City of Glendale alleged that a Glendale Unified School District outreach program informed parents of the loading and unloading zones. Plaintiffs disputed this fact, citing an expert witness who stated that two small signs on the north side of Glenwood Road communicated that the area was intended for police vehicles only and prohibited other traffic from stopping between the crosswalk and the east end of the police parking zone. The two signs were not standard Caltrans or federal parking restriction signs and did not inform parents they were prohibited from stopping to drop off children at that location.

In 2003, yellow-flashing in-roadway warning lights and yellow flashing warning signs mounted on poles on adjacent sidewalks were added to the mid-block crosswalk on

Glenwood Road. City engineers supervised and approved installation of this warning system. The yellow-flashing in-roadway warning lights could not be seen in a video of the accident. Following the accident, the warning system was tested and found to have been operating properly.

The City of Glendale cited evidence that it had no record of any other automobile-versus-pedestrian accidents in the five years preceding the accident, except for a 2004 accident in which a high school student did not activate crosswalk lights, darted into the crosswalk, and was struck by a vehicle. That student was found to be at fault for the accident by entering traffic unsafely in violation of Vehicle Code section 21950(B) and not using the pedestrian signal. Plaintiffs disputed that this was the only automobile-versus-pedestrian accident in the five years before the 2008 accident involving Meri Nalbandyan, citing evidence that in the 10-years before that 2008 accident, there were three automobile-versus-pedestrian accidents within 25 feet of the crosswalk and two other such accidents on Glenwood Road.

Plaintiffs sued the City of Glendale for wrongful death (negligence and premises liability), and negligent infliction of emotional distress. The City of Glendale moved for summary judgment on the grounds that there was no dangerous condition of public property and that it was immune from liability pursuant to section 830.6. The trial court granted the motion on November 17, 2011, and entered judgment for defendants on December 7, 2011. Plaintiff filed a timely notice of appeal.

ISSUES

Plaintiffs make the following contentions on appeal:

1. The trial court erroneously ruled as a matter of law that the design of the crosswalk did not make it a dangerous condition of public property; and

2. The trial court erroneously ruled there was no triable issue of material fact that the in-roadway lighting system did not emit sufficient light because the City failed to maintain it properly, which rendered the crosswalk a dangerous condition of public property.

DISCUSSION

1. *Standard of Review*

"A trial court properly grants summary judgment where no triable issue of material fact exists and the moving party is entitled to judgment as a matter of law. (Code Civ. Proc., § 437c, subd. (c).) We review the trial court's decision de novo, considering all of the evidence the parties offered in connection with the motion (except that which the court properly excluded) and the uncontradicted inferences the evidence reasonably supports. [Citation.] In the trial court, once a moving defendant has 'shown that one or more elements of the cause of action, even if not separately pleaded, cannot be established,' the burden shifts to the plaintiff to show the existence of a triable issue; to meet that burden, the plaintiff 'may not rely upon the mere allegations or denials of its pleadings . . . but, instead, shall set forth the specific facts showing that a triable issue of material fact exists as to that cause of action . . . .' [Citations.]" (*Merrill v. Navegar, Inc.* (2001) 26 Cal.4th 465, 476-477.)

2. *Dangerous Condition of Public Property*

Except as provided by statute, a public entity[2] such as the City of Glendale, is not liable for an injury arising out of an act or omission by itself or its employees. (§ 815, subd. (a).) Section 835 sets forth the exclusive conditions under which a public entity can become liable for injuries caused by a dangerous condition of public property. (*Brown v. Poway Unified School Dist.* (1993) 4 Cal.4th 820, 829.) Under section 835, "a public entity is liable for injury caused by a dangerous condition of its property if the plaintiff establishes that the property was in a dangerous condition at the time of the injury, that the injury was proximately caused by the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred, and that either: [¶] (a) A negligent or wrongful act or omission of an employee

[2] " 'Public entity' includes the state, the Regents of the University of California, the Trustees of the California State University and the California State University, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the State." (§ 811.2.) Thus the City of Glendale is a public entity.

of the public entity within the scope of his employment created the dangerous condition; or [¶] (b) The public entity had actual or constructive notice of the dangerous condition under Section 835.2 a sufficient time prior to the injury to have taken measures to protect against the dangerous condition."

" 'Dangerous condition' means a condition of property that creates a substantial (as distinguished from a minor, trivial or insignificant) risk of injury when such property or adjacent property is used with due care in a manner in which it is reasonably foreseeable that it will be used." (§ 830, subd. (a).) Whether a dangerous condition exists is ordinarily a question of fact, but the issue can be decided as a matter if law if reasonable minds can reach only one conclusion. (*Cerna v. City of Oakland* (2008) 161 Cal.App.4th 1340, 1347 (*Cerna*).) "A condition is not a dangerous condition . . . if the trial or appellate court, viewing the evidence most favorably to the plaintiff, determines as a matter of law that the risk created by the condition was of such a minor, trivial or insignificant nature in view of the surrounding circumstances that no reasonable person would conclude that the condition created a substantial risk of injury when such property or adjacent property was used with due care in a manner in which it was reasonably foreseeable that it would be used." (§ 830.2.)

Generalized allegations of a dangerous condition are not sufficient. A claim alleging a dangerous condition must specify how the condition constitutes a dangerous condition, and plaintiff's evidence must establish a physical deficiency in the property. "A dangerous condition exists when public property 'is physically damaged, deteriorated, or defective in such a way as to foreseeably endanger those using the property itself,' or possesses physical characteristics in its design, location, features or relationship to its surroundings that endanger users." (*Cerna, supra*, 161 Cal.App.4th at pp. 1347-1348.) Liability is imposed only when there is a defect in the physical condition of the property itself and there is a causal connection between that defect and the injury. (*Zelig v. County of Los Angeles* (2002) 27 Cal.4th 1112, 1135.)

If some physical characteristic of the property exposes users to increased danger from third party negligence or criminality, a public may be liable for a dangerous condition of public property where the third party's negligent or illegal act caused plaintiff's injury. Third party conduct by itself, however, which is unrelated to the condition of the property, does not constitute a dangerous condition for which a public entity may be held liable. The defective condition of the property must have some causal relationship to the third party conduct that injures the plaintiff. Public liability under section 835 will be found only when a feature of the public property has increased or intensified the danger to users from third party conduct. (*Cerna, supra*, 161 Cal.App.4th at p. 1348.)

3. *The Mid-Block Crosswalk Was Not a Dangerous Condition of Public Property*

Plaintiffs claim that the trial court erroneously ruled as a matter of law that the design of the crosswalk did not make it a dangerous condition of public property. Plaintiffs contend that the crosswalk was a dangerous condition of public property because it was placed, without any justification and without adequate safety countermeasures, in front of two school entrances in the midst of very heavy pedestrian and vehicle traffic during pick-up and drop-off hours.

a. *The Lack of Justification for a Crosswalk at This Location Does Not Make the Crosswalk a Dangerous Condition*

Plaintiffs claim there was a lack of any justification for having the crosswalk at this location. A dangerous condition, however, must be a "condition of property" that creates a substantial risk of injury. (§ 830, subd. (a).) Plaintiffs must establish a physical deficiency in the property, in that the public property is " 'physically damaged, deteriorated, or defective in such a way as to foreseeably endanger those using the property itself,' " or possesses *physical characteristics* in its design, location, features or relationship to its surroundings that endanger users. (*Cerna, supra*, 161 Cal.App.4th at pp. 1347-1348.) The lack of justification for a crosswalk at this location is not a "condition of property," is not evidence that the public property was physically damaged,

deteriorated, or defective, and is not a *physical characteristic* of its design, location, features or relationship to its surroundings that endangers users.

b. *High Vehicular and Pedestrian Traffic Alone Do Not Create a Dangerous Condition*

Plaintiffs claim that very high vehicular traffic and a high number of student pedestrians using the crosswalk make it a dangerous condition. This again does not involve a physically damaged, deteriorated, or defective characteristic of the public property, or a physical characteristic of its design, location, features, or relationship to its surroundings. Plaintiffs have not alleged that a physical characteristic of the crosswalk such as blind corners, obscured sightlines, elevation variances, or any other unusual condition made the crosswalk unsafe when used by motorists and pedestrians exercising due care. (*Brenner v. City of El Cajon* (2003) 113 Cal.App.4th 434, 440-441.) Plaintiffs have not cited any authority that a dangerous condition exists absent such factors. (*Ibid*.) Heavy use of a given road alone does not make a dangerous condition. (*Mittenhuber v. City of Redondo Beach* (1983) 142 Cal.App.3d 1, 7 (*Mittenhuber*).) "The combination of high-speed traffic and heavy pedestrian use alone simply does not lead to public entity liability." (*Sun v. City of Oakland* (2008) 166 Cal.App.4th 1177, 1190 (*Sun*).)

c. *Plaintiffs Have Not Provided Evidence That the Location of the Crosswalk Made It a Dangerous Condition*

Plaintiffs claim that the location of the crosswalk in front of entrances to two schools, surrounded by three public schools with more than 5,000 students, makes it a dangerous condition. Plaintiffs cite a declaration of Dale R. Dunlap, a civil engineer experienced in transportation design. Dunlap's declaration, however, stated only that the crosswalk was located between Hoover High School on the north side of Glenwood Road and Toll Middle School on the south side, and was used by students and other pedestrians to travel between those schools. Dunlap makes no mention of a combined attendance of 5,000 students. The location of the crosswalk between Hoover High School and Toll Middle School is not evidence of a physical deficiency in the crosswalk, and is not evidence that the public property was physically damaged, deteriorated, or defective.

(*Cerna, supra,* 161 Cal.App.4th at pp. 1347-1348.) Liability is imposed only when there is some defect in the physical condition of the property itself and there is a causal connection between that defect and the injury. (*Zelig v. County of Los Angeles, supra,* 27 Cal.4th at p. 1135.)

d. *The Mid-Block Crosswalk Was Not a Dangerous Condition*

Plaintiffs claim that as a "mid-block crosswalk," the crosswalk was inherently more hazardous for pedestrians and gave a false sense of security to pedestrians that resulted from pedestrians' assumption that all drivers were aware of the existence of crosswalk markings. Vehicle Code section 21106, subdivision (a), however, allows the placement of cross-walks "between" intersections. Vehicle Code section 21368, pertaining to crosswalks near schools, likewise contemplates that a crosswalk contiguous to school buildings or grounds may be placed in mid-block. (*Moritz v. City of Santa Clara* (1970) 8 Cal.App.3d 573, 576 (*Moritz*).) Such a crosswalk is not a dangerous condition, and "[p]edestrians using the crosswalk would do so rightfully and without danger except that which would arise from a plain violation of law by the driver of a vehicle."[3] (*Ibid.*)

Here the mid-block crosswalk did not create a hazard for pedestrians or give them a false sense of security. Instead the proximate cause of the accident was a driver whose attention was diverted and who violated Vehicle Code section 21950, subdivision (a) by failing to yield the right-of-way to a pedestrian. That driver was not using the public entity's property with due care. Thus the mid-block crosswalk was not a dangerous condition as defined by section 830, subdivision (a): it was not a condition of property that created a substantial risk of injury when such property was used with due care in a manner in which it was reasonably foreseeable that it would be used.

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[3] "Drivers of vehicles are required to yield the right-of-way to pedestrians crossing the roadway within any marked crosswalk, by the provisions of Vehicle Code section 21950." (*Moritz, supra,* 8 Cal.App.3d at p. 576.) Vehicle Code section 21950, subdivision (a) states: "The driver of a vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection, except as otherwise provided in this chapter."

e. *The Active Drop-Off Zone Near the Crosswalk Was Not a Physical Deficiency of the Crosswalk and Did Not Make It a Dangerous Condition*

Plaintiffs claim that parents dropped their children off near the crosswalk, making that area an active drop-off zone, and that defendant's traffic and safety engineering expert admitted in his deposition that if the area near the crosswalk was a drop-off zone, the cross walk was a dangerous condition and more safety measures were needed.

Plaintiffs misstate the evidence. The traffic and safety engineering expert did not state that if the area near the crosswalk was an active drop-off zone, the crosswalk was a dangerous condition. He was asked that if the no-dropping-off zone were not present and parents were allowed to drop their children there, whether this would change his opinion about the safety of the crosswalk. He answered: "Possibly, yes. If that was an active drop-off zone and pick-up zone, then I think there might be justification for a crossing guard or some other controls at the mid-block crosswalk."

Dropping off arriving students and picking up departing students, making the area near the crosswalk an active drop-off and pick-up zone, was not a "condition of property" that creates a substantial risk of injury. (§ 830, subd. (a).) Plaintiffs must establish that the public property is " 'physically damaged, deteriorated, or defective in such a way as to foreseeably endanger those using the property itself,' " or possesses *physical characteristics* in its design, location, features or relationship to its surroundings that endanger users. (*Cerna, supra,* 161 Cal.App.4th at pp. 1347-1348.) The dropping off and picking up of students near the crosswalk is not a physical deficiency of the crosswalk, and is not a physical characteristic of its design, location, features or relationship to its surroundings that endangers users.

f. *The Bump-Outs Did Not Make the Crosswalk a Dangerous Condition*

In November 2000, the Glendale City Council approved modifications to crosswalks on Glenwood Road, which included building concrete bump-outs that extended curbs and sidewalks into the street. The bump-outs reduced the pedestrian crossing width of Glenwood Road from 45 feet to 24 feet.

Plaintiffs claim that no studies were conducted to determine whether installing bump-outs was an effective safety countermeasure for the crosswalk. The lack of studies, however, is not "condition of property" that creates a substantial risk of injury, is not a physical deficiency of the crosswalk, and is not a physical characteristic of the design, location, feature, or relationship of the crosswalk to its surroundings. The lack of studies therefore was not, and did not cause the crosswalk to become, a dangerous condition of public property. The bump-outs themselves may decrease risk to pedestrians by shortening the distance needed to cross the street, making pedestrians more visible to motorists, and slowing traffic. (*Sun, supra*, 166 Cal.App.4th at p. 1189.) Plaintiffs argue that the City's installation of bump-outs reflects the City's belief that the crosswalk was a dangerous condition without any safety countermeasures, and the City never conducted studies to determine the danger presented by the crosswalk, the effectiveness of the countermeasures adopted (the bump-outs and in-roadway warning lights), and the effectiveness of alternative countermeasures.

Plaintiffs, however, expressly state that the bump-outs did not render the crosswalk dangerous. They argue that it was the "design" of the crosswalk that made it a dangerous condition of public property because of a lack of justification for installing the crosswalk at that location and the lack of appropriate and effective safety countermeasures to reduce the inherent substantial risk of injury presented by the crosswalk. We reiterate, however, that the lack of justification for installing the crosswalk at the location is not a "condition of property that creates a substantial . . . risk of injury when such property . . . is used with due care in a manner in which it is reasonably foreseeable that it will be used." Moreover, this crosswalk did not present an "inherent substantial risk of injury." A crosswalk is not an inherently dangerous condition when used with due care by the general public. The only risk of harm was from a motorist who failed to exercise due care by not obeying Vehicle Code provisions requiring the motorist to yield to a pedestrian. (*Sun, supra*, 166 Cal.App.4th at p. 1190; *Moritz, supra*, 8 Cal.App.3d at p. 576.) The bump-outs did not make the crosswalk a dangerous condition within the meaning of section 835.

g. *The In-Roadway Warning Lights Did Not Make the Crosswalk a Dangerous Condition*

In 2003, yellow-flashing in-roadway warning lights and warning signs mounted on poles on adjacent sidewalks were added to the mid-block crosswalk.

Plaintiffs claim that the crosswalk was a dangerous condition because it did not have an effective, proven system to alert approaching drivers to the presence of pedestrians in the crosswalk or to communicate to pedestrians that they must continue to watch for approaching vehicles after engaging the in-roadway lights. Plaintiffs cite evidence that the yellow-flashing in-roadway warning lights could not be seen in a video of the accident. However, there was also evidence from an eyewitness—plaintiff Lilit Markaryan, the mother of Meri Nalbandyan—that she saw the in-roadway warning lights flashing yellow in the crosswalk before the accident.

Section 830.8 states: "Neither a public entity nor a public employee is liable under this chapter for an injury caused by the failure to provide traffic or warning signals, signs, markings or devices described in the Vehicle Code. Nothing in this section exonerates a public entity or public employee from liability for injury proximately caused by such failure if a signal sign, marking or device (other than one described in Section 830.4) was necessary to warn of a dangerous condition which endangered the safe movement of traffic and which would not be reasonably apparent to, and would not have been anticipated by, a person exercising due care."

A public entity may be liable for accidents proximately caused by its failure to provide a signal, sign, marking or device to warn of a dangerous condition which endangers the safe movement of traffic "and which would not be reasonably apparent to, and would not have been anticipated by, a person exercising due care." (§ 830.8; *Chowdhury v. City of Los Angeles* (1995) 38 Cal.App.4th 1187, 1196-1197 (*Chowdhury*).) This "concealed trap" statue applies to accidents proximately caused when the public entity fails to warn of a defect known to the public entity but concealed from unsuspecting motorists. (*Ibid*.) Where no dangerous condition exists, however, no warning devices are required. A city is required under section 830 to provide a warning

by signals, signs, or other devices only if a dangerous condition exists. (*Callahan v. City and County of San Francisco* (1971) 15 Cal.App.3d 374, 380; *Mittenhuber*, *supra*, 142 Cal.App.3d at p. 12.)

At the crosswalk on Glenwood Road there was no concealed trap or other defect known to the City of Glendale but concealed from motorists. Thus whether the in-roadway warning lights functioned is not relevant to whether the crosswalk was a dangerous condition because section 830.8 makes a public entity immune from liability "for an injury caused by the failure to provide traffic or warning signals, signs, markings or devices described in the Vehicle Code." Even if the in-pavement warning lights failed to activate, moreover, liability would not attach. (*Chowdhury*, *supra*, 38 Cal.App.4th at p. 1195.)

Plaintiffs also argue that under the "invited reliance" doctrine, the City of Glendale was not immunized from liability for failing to provide signs, signals, or warnings if the public entity undertook to provide and invited public reliance on such measures.

The "invited reliance" doctrine stems from *Teall v. City of Cudahy* (1963) 60 Cal.2d 431, in which a truck struck a seven-year-old child crossing a street. A signal designed to guide pedestrians crossing in the crosswalk was not visible where the child stood. A signal visible to the child turned red, permitting her to assume that vehicles would stop at that red light and it was safe for her to cross. In fact, at the offset intersection all signals were red to permit vehicles that had entered the intersection on a green light to clear it before pedestrians crossed. The child relied on the signal visible to her, assumed that a signal not visible to her was green and permitted her to cross, and entered the crosswalk. She was hit by a truck that had entered the intersection on a green light but had not yet cleared the intersection. (*Id.* at p. 433.) *Teall* held that where a defendant undertook to control traffic at the intersection and invited reliance on its signals, it could be held liable if it created a dangerous or defective condition in doing so. (*Id*. at p. 434.) The dangerous or defective condition in *Teall* was clear: the signal designed to guide pedestrians crossing in the crosswalk was not visible to those

pedestrians, and other traffic signals mislead pedestrians into thinking it was safe to cross when it was not safe.

In this case, however, there was no dangerous condition at the crosswalk which misled pedestrians into thinking it was safe to cross when it was not safe. The installation of in-pavement lights did not mislead pedestrians about the safety of crossing, or permit them to believe it was safe to cross when it was not. Even if the in-pavement lights did not function, the crosswalk was marked and drivers were required to stop for pedestrians in that marked crosswalk. (Veh. Code, § 21950, subd. (a).) As we have found, there was no dangerous condition at the crosswalk, and thus the invited reliance doctrine does not cause the City of Glendale to be liable in these circumstances.

In *Mittenhuber, supra,* 142 Cal.App.3d 1, a child riding a bike rode through an intersection on a street marked by stop signs and collided with a vehicle driving on a street not marked by stop signs. Plaintiff did not allege that the placement of stop signs was done in a defective or confusing manner, that the stop sign was obstructed or that plaintiff was unable to observe it, or that defendant placed the stop sign improperly or was negligent in maintaining it. A motorist driving on the street with no stop signs was under no obligation to stop or slow his speed before entering the intersection with the street that was marked by stop signs. The doctrine of invited reliance had no application. (*Id*. at pp. 9-11.)

In *Chowdhury, supra,* 38 Cal.App.4th 1187, a power outage caused all traffic signals at an intersection to become inoperative. A driver failed to stop before proceeding through the intersection and broadsided the vehicle driven by the plaintiff, killing him. *Chowdhury* held that obviously inoperative traffic signals during a power outage did not amount of a dangerous condition. (*Id*. at p. 1194.) The failure to provide regulatory traffic control signals and signs did not create a dangerous condition. If the public entity installed traffic signals and invited the public to rely on them, liability would attach if the signals malfunctioned, confused or misled motorists, and caused an accident to occur. "[T]he government creates a dangerous condition and a trap when it operates traffic signals that, for example, direct motorists to 'go' in all four directions of

an intersection simultaneously, with predictable results." (*Id*. at p. 1195.) But where traffic signals are turned off entirely, either by design or by accident, liability does not attach. Extinguished lighting in the in-pavement warning lights did not give a false indication either to pedestrians or motorists; non-operating or extinguished lighting "gave no indication at all and did not mislead or misdirect motorists" or pedestrians. (*Ibid*.)

The invited reliance doctrine has no application to this appeal.

h. *Conclusion*

Plaintiffs have not created a triable issue of fact that the crosswalk was a dangerous condition of public property. The trial court correctly ruled that the crosswalk was not a dangerous condition of public property and properly granted summary judgment for defendant.

4. *The City of Glendale Satisfied the Element of the Design Immunity Defense*

Even if it is assumed that the plan or design of the crosswalk was a dangerous condition, the City of Glendale claims the defense of design immunity.

Pursuant to section 830.6,[4] a public entity may avoid liability for injury proximately caused by a dangerous condition of its property by raising the affirmative defense of design immunity. A public entity claiming design immunity must establish: (1) a causal relationship between the plan or design and the accident; (2) discretionary approval of the plan or design prior to construction; and (3) substantial evidence supporting the reasonableness of the plan or design. (*Cornette v. Department of Transportation* (2001) 26 Cal.4th 63, 66.) Whether each element of design immunity

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[4] Section 830.6 states, in relevant part: "Neither a public entity nor a public employee is liable under this chapter for an injury caused by the plan or design of a construction of, or an improvement to, public property where such plan or design has been approved in advance of the construction or improvement by the legislative body of the public entity or by some other body or employee exercising discretionary authority to give such approval or where such plan or design is prepared in conformity with standards previously so approved, if the trial or appellate court determines that there is any substantial evidence upon the basis of which (a) a reasonable public employee could have adopted the plan or design or the standards therefor or (b) a reasonable legislative body or other body or employee could have approved the plan or design or the standards therefor."

exists is a question of law. (*Fuller v. Department of Transportation* (2001) 89 Cal.App.4th 1109, 1114.)

A public entity may rely on plaintiffs' pleadings to establish the element of causation. (*Fuller v. Department of Transportation, supra*, 89 Cal.App.4th at p. 1114.) The City of Glendale relies on allegations in plaintiffs' complaint that the accident occurred because of the poor design of the crosswalk and inadequate signage, lighting, and signals. That complaint is not in the record on appeal. Plaintiffs, however, have described their wrongful death and negligent infliction of emotional distress causes of action as alleging the City's liability for negligent design, and negligent maintenance, of the crosswalk. The City of Glendale therefore has established a causal relationship between the plan or design and the accident.

It was undisputed that in July and November 2000, the Glendale City Council approved design plans and modifications to crosswalks on Glenwood, including building bump-outs, which were designed by the City's Traffic and Civil Engineers Jano Baghdanian and Thomas E. Mitchell. It was undisputed that in November 2000, the Glendale City Council approved a plan to designate curbside loading and unloading zones on Concord and Virginia. It was undisputed that in 2003, yellow-flashing in-roadway warning lights and yellow-flashing warning signs mounted on poles on adjacent sidewalks were added to the mid-block crosswalk, and City engineers supervised and approved installation of this warning system. Thus the City of Glendale established the second element of discretionary approval of the plan or design prior to construction.

The third element of design immunity, whether the defendant presented substantial evidence supporting the reasonableness of the plan or design, is a matter for the court. (§ 830.6; *Laabs v. City of Victorville* (2008) 163 Cal.App.4th 1242, 1263.) The design immunity defense is valid "where there is any substantial evidence that a reasonable employee or legislative body could have approved the plan which actually was approved." (*Moritz, supra*, 8 Cal.App.3d at p. 577.) " 'In determining whether evidence . . . is substantial, the question is whether the evidence "reasonably inspires confidence" and is of "solid value." [Citation.]' [Citations.] Typically, 'any substantial evidence'

consists of an expert opinion as to the reasonableness of the design, or evidence of relevant design standards." (*Laabs v. City of Victorville, supra,* 163 Cal.App.4th at p. 1264.)

The City of Glendale provided a declaration of Weston Pringle, a licensed engineer employed in traffic engineering for more than 40 years. Pringle reviewed the July 2000 plans approved by the Glendale City Council for the crosswalk, the July 2000 reports to the Council, and the accident history for the crosswalk, and visited the crosswalk. Pringle stated that the bump-outs and lighting system existing at the time of the accident were consistent with accepted traffic engineering principles, and enhanced pedestrian safety aspects of the crosswalk. The restrictive parking zones on Glenwood Road, coupled with drop-off zones on side streets, created a traffic pattern designed to minimize pedestrian and vehicle traffic conflict on Glenwood Road.

The City of Glendale also provided a declaration of Jano Baghdanian, a registered civil engineer and traffic engineer and the Administrator of the Traffic and Transportation Division of the City of Glendale Public Works Department. Baghdanian oversees traffic engineering, transportation projects, and parking for the City. Baghdanian stated that City of Glendale engineers designed the bump-outs constructed at the crosswalk, he approved that design, and the Glendale City Council approved those bump-outs and other modifications to the crosswalk in November 2000. Baghdanian stated that the crosswalk complied with the Vehicle Code and the California Manual on Uniform Traffic Control Devices, Section 3B.17, and the bump-outs were designed in compliance with engineering standards, taking into consideration the need to maintain traffic flow while reducing crosswalk length. City of Glendale engineers supervised and approved installation of the yellow-flashing in-roadway warning lights and signs.

These declarations constituted substantial evidence supporting the reasonableness of the plan or design.

Even if the crosswalk was a dangerous condition of public property, the City of Glendale therefore has established the elements of the design immunity defense, and is not liable for an injury caused by the plan or design of the crosswalk. Summary judgment was properly granted for the defendant.

DISPOSITION

The judgment is affirmed. Costs on appeal are awarded to defendant City of Glendale.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

KITCHING, J.

We concur:

CROSKEY, Acting P. J.

ALDRICH, J.